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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/535,348	03/24/2000	Gang Sun	18062G-003000US	3172
20350	7590	08/23/2002		Vb
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER	
			STOCKTON, LAURA LYNNE	
			ART UNIT	PAPER NUMBER
			1626	

DATE MAILED: 08/23/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.



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EXAMINER

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DATE MAILED:

This is a communication from the examiner in charge of your application.  
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### OFFICE ACTION SUMMARY

Responsive to communication(s) filed on July 8, 2002

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), July 8, 2002, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1 - 56  are pending in the application.  
Of the above, claim(s) 2, 5-7, 9-12 and 15-56  are withdrawn from consideration.

Claim(s) \_\_\_\_\_  is/are allowed.

Claim(s) 1, 3, 4, 8 and 13  are rejected.

Claim(s) \_\_\_\_\_  is/are objected to.

Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on July 8, 2002 is/are objected to by the Examiner.

The proposed drawing correction, filed on July 8, 2002 is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of Reference Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 8 and 11

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

-SEE OFFICE ACTION ON THE FOLLOWING PAGES-

09/535,347  
\* U.S. GPO: 1996

## DETAILED ACTION

**Claims 1-56 are pending in the application.**

### *Election/Restrictions*

Applicants' election with traverse of Group I, claims 1-14, and the species of compound 6 on page 11 in Paper No. 10 is acknowledged. The traversal is on the ground(s) that the restriction is improper because it would not impose a serious burden on the Examiner to search claims 1-28.

Applicants' argument has been considered but has not been found persuasive. Different search consideration are involved for each of the groups listed in the previous Office Action. Therefore, it would impose an undue burden on the Examiner and the Patent Office's resources to examine the instant application in its entirety, or even the examination of the invention of claims 15-28 along with elected Group I.

The requirement is still deemed proper and is therefore made FINAL.

The claims have been examined to the extent that they are readable on the elected embodiment (e.g., the elected species of compound 6 on page 11). Since art was found on the elected species, the examination of Group I was not expanded. Note, M.P.E.P. § 803.02.

The claims that are readable on the elected species of compound 6 are claims 1, 3, 4, 8 and 13.

Subject matter not embraced by the elected species of compound 6 and claims 2, 5-7, 9-12 and 14-56 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to

nonelected inventions. Applicant timely traversed the restriction (election) requirement in Paper No. 10.

It is suggested that in order to advance prosecution, the non-elected subject matter be canceled when responding to this Office Action.

The references cited on the 1449 Forms (filed June 1, 2001 and July 8, 2002) have been considered to the extent of the patentability of the elected species of compound 6.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3, 4, 8 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and

distinctly claim the subject matter which applicant regards as the invention.

In claim 1, under the definition of Z, the phrase “C(O), or a single bond” should be changed to “C(O), and a single bond” since the language “selected from the group consisting of” is used.

Claim 13 does not conform to M.P.E.P. 608.01(m) since each claim must end with a period.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 8 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Zussman et al. {U.S. Pat. 4,091,223}.

Zussman et al. disclose Example 2 in column 11 {CA Reg. No. 3366-92-5}, which is Applicants' elected species of compound 6.

Claims 1, 3, 4, 8 and 13 have been examined to the extent that the elected species of compound 6 is embraced by these claims. All other subject matter in these claims has not been examined. The elected species is not allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura L. Stockton whose telephone number is (703) 308-1875. The examiner can normally be reached on Monday-Friday from 6:00 am to 2:30 pm. If the examiner is out of the Office, the examiner's supervisor, Joseph McKane, can be reached on (703) 308-4537.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1235.

The fax phone numbers for the organization where this application or proceeding is assigned is (703) 308-4556.



Laura L. Stockton, Ph.D.

Patent Examiner

Art Unit 1626, Group 1620

Technology Center 1600

August 22, 2002